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 CITY OF CONCORD et al.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CONCORD COMMUNITIES, L.P., d/b/a
 Adobe Mobile Lodge and d/b/a Diablo Mobile
 Lodge; ADOBE ASSOCIATES, LLC, d/b/a
 Adobe Mobile Lodge; DIABLO
 ASSOCIATES, LLC, d/b/a Diablo Mobile
 Lodge,

Petitioners,

v.

CITY OF CONCORD; CITY OF CONCORD
 CITY COUNCIL; and CITY OF CONCORD
 RENT REVIEW BOARD,

Respondents,

and

TENANTS RESIDING AT ADOBE MOBILE
 LODGE AND DIABLO MOBILE LODGE

Real Parties in Interest.

Case No. C05-04094 JSW

**STIPULATION AND
~~PROPOSED~~ ORDER TO
 CONTINUE BRIEFING
 SCHEDULE**

Date: February 24, 2006
 Time: 9:00 a.m.
 Location: Courtroom 2
 Judge: Hon. Jeffery S. White

Pursuant to Local Rule 7-12 and this Court's January 6, 2006, Order Setting Briefing Schedule, the parties hereto, through their respective counsel of record, hereby stipulate as follows:

1. On January 4, 2006, Respondents City of Concord et al ("City") filed a motion to dismiss Petitioners/Plaintiffs Concord Communities et al ("Concord Communities") First Amended Petition for Writ of Mandamus and Complaint.

2. The City calendered that motion to be heard on February 24, 2006. Accordingly, pursuant to Local Rule 7-3, Concord Communities' opposition would have been due on February 3, 2006, and the City's reply would have been due February 10, 2006.

3. The Court's January 6, 2006, Order moved those dates back by two weeks, to January 20 and January 27, 2006, respectively. The dates set by the Court appear to be those that would have applied to the motion to dismiss Concord Communities' original Petition for Writ of Mandamus ("Original Petition"), which the City filed on December 23, 2005. The City withdrew that motion after receiving a copy of the First Amended Petition, which had been filed one day earlier.

4. The City has requested that Concord Communities stipulate to modify the briefing schedule set by the Court so that the opposition and reply briefs would be due on the dates otherwise established by Local Rule 7-3 (i.e., February 3rd for the opposition and February 10th for the City's reply).

5. The City has indicated that the reason for this request is the unavailability of the City's outside counsel—Shute, Mihaly & Weinberger LLP ("SMW")—to prepare the City's reply during the week preceding the January 27th due date set by the Court. Specifically, the SMW associate attorney assigned to this case, Gabriel M. Ross, is completely unavailable during that time. Mr. Ross, who worked straight through the December holidays on the City's motion to dismiss and other matters, will be on vacation with his fiancée in Mexico from January 20, 2006 through January 31, 2006.¹

¹Mr. Ross' name only appears for the first time on this pleading because his application for admission to this Court was not accepted until January 10, 2006.

6. The City's lead attorney in this case, SMW partner Robert Perlmutter, also has indicated that he has extremely limited availability during the week preceding January 27th to spend on the City's reply brief due to previously scheduled commitments in other matters, including the following: (a) preparing for and attending an all-day mediation on January 25, 2006 in the case of DeltaKeeper v. Port of Stockton, Case No. C050636 (Cal. Ct. Appeal 3rd App. Dist.); (b) drafting a complex local ballot measure that must be completed by the end of January;² and (3) drafting and overseeing the preparation of detailed comments on the City of Long Beach, California's, Airport Terminal Area Improvement Project Draft Environmental Impact Report; under the California Environmental Quality Act, Cal. Pub Res. Code §21000 et seq, these comments must be submitted no later than January 31, 2006.

7. Mr. Perlmutter has further indicated, and attests by his signature below, that: (a) these prior commitments—the bulk of which were set during the period between the City's filing of its motion to dismiss the Original Petition on December 23, 2005, and the motion to dismiss the Amended Petition on January 4, 2006—will consume substantially all of his time during the week of January 23rd; (b) no other SMW attorney is presently available to work on the City's reply during that week; and (c) the Concord City Attorney's office is playing a supervisory role in this case and, as such, is not available to draft the City's reply brief.

8. Concord Communities is willing to stipulate to the City's request to continue the due date for its opposition to February 3, 2006, and the due date for the City's reply until February 10, 2006.

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²The identity of this client and ballot measure is presently confidential.

1 Dated: 1/11/06

SHUTE, MIHALY & WEINBERGER LLP

2 By: /S/
3 ROBERT S. PERLMUTTER
4 Attorneys for Respondents
5 CITY OF CONCORD; CITY OF CONCORD CITY
6 COUNCIL; and CITY OF CONCORD RENT REVIEW
7 BOARD

8 Dated: 1/11/06

LAW OFFICE OF ANTHONY C. RODRIGUEZ

9 By: /S/
10 ANTHONY C. RODRIGUEZ
11 Attorneys for Petitioners
12 CONCORD COMMUNITIES, L.P., d/b/a Adobe Mobile
13 Lodge and d/b/a Diablo Mobile Lodge; ADOBE
14 ASSOCIATES, LLC, d/b/a Adobe Mobile Lodge;
15 DIABLO ASSOCIATES, LLC, d/b/a Diablo Mobile
16 Lodge,

17 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

18 Dated: January 12, 2006

19 By: 
20 JEFFREY S. WHITE
21 UNITED STATES DISTRICT JUDGE
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